

**STATEMENT OF THE FREEDOM OF INFORMATION COMMISSION  
IN OPPOSITION, IN PART, TO RAISED BILL NO. 954,  
AN ACT CONCERNING THE ELECTRONIC RECORDING OF CUSTODIAL  
INTERROGATIONS**

**March 9, 2011**

The Freedom of Information (FOI) Commission does not oppose the stated purpose of Raised Bill 954 - to improve the reliability of confessions by providing that statements made by a person during a custodial interrogation at a place of detention are presumed inadmissible unless the custodial interrogation is electronically recorded. Ensuring the authenticity of custodial interrogations by using electronic recordings is a worthy goal.

As written, however, the proposal forever excludes such recordings from disclosure under the FOI Act (lines 73-78), thereby decreasing government transparency in the State of Connecticut, and further eroding the state's FOI Act and the public's confidence in law enforcement. The proposal begs the question: What is the need to permanently exclude these videotapings from the purview of the public?

Section 1-210(b)(3)(A), (C) and (G), G.S., provides that disclosure is not required of:

Records of law enforcement agencies not otherwise available to the public which records were compiled in connection with the detection or investigation of crime, if the disclosure of said records would not be in the public interest because it would result in the disclosure of (A) the identity of informants not otherwise known or the identity of witnesses not otherwise known whose safety would be endangered or who would be subject to threat or intimidation if their identity was made known...(C) information to be used in a prospective law enforcement action if prejudicial to such action...or (G) uncorroborated allegations subject to destruction pursuant to section 1-216 ....

Thus, the FOI Act already permissively exempts from disclosure information that may be gathered during a custodial interrogation. This exemption shields from disclosure information to be used in a prospective law enforcement action, information that would reveal the identity of informants and uncorroborated allegations of criminal activity. Therefore, law enforcement agencies already have the ability to permissively withhold the electronic recordings, in appropriate circumstances, making the proposed legislation repetitive and unnecessary.

At a minimum, the language of the proposal should be amended to require that when a recording becomes evidence in court during a public trial - particularly a recording that contains a confession - it will also be available to the public. Doing so will uphold the rights of both defendants and the public itself. Such availability will instill public trust and confidence in law enforcement.

The FOI Commission respectfully submits that this exclusion is unnecessary and that the objectionable lines of the bill be stricken to preserve public access to these recordings.

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